

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
FILED IN CLERKS OFFICE
2004 FEB -4 P 1:01

U.S. DISTRICT COURT
DISTRICT OF MASS.

BELA F. BALOGH,)
Plaintiff)
)
V.)
)
MARIETTE L. POIRIER, f/k/a)
MARIETTE L. BALOGH and)
THE MASSACHUSETTS)
STATE CARPENTERS PENSION FUND,)
Defendants)
)

C. A. NO.

04-40016

RECEIVED
U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS
FEB 4 2004

NOTICE OF REMOVAL

Please take notice that pursuant to 28 U.S.C. 881441-1452 Defendant, Massachusetts State Carpenters Pension Fund (Pension Fund), hereby removes the above-entitled action pending in the Probate Court of Worcester County in the Commonwealth of Massachusetts to the United States District Court for the District of Massachusetts. In support of its Notice of Removal the Pension Fund states:

1. On or about January 7, 2004 an action entitled Bela F. Balogh vs. Mariette L. Poirier f/k/a Mariette L. Balogh and the Massachusetts State Carpenters Pension Fund, (Civil Action 03E 0057-GC), was commenced in Worcester County Probate Court for the Commonwealth of Massachusetts (A copy of the Plaintiff's Complaint is attached hereto and marked as Exhibit 1)

RECEIVED
U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS
FEB 4 2004
04-40016
150.00
2-4-04

2. On or about January 22, 2004 a copy of the Complaint was received at the offices of the undersigned as counsel for the Pension Fund. The undersigned agreed to accept service on behalf of the Pension Fund.

3. Upon information and belief the Complaint served upon the Pension Fund was a Second Amended Complaint and the only pleading properly served upon the Pension Fund.

4. The Plaintiff is a beneficiary/participant of the Massachusetts State Carpenters Pension Plan.

5. The Pension Fund is an employee benefit plan as defined in The Employee Retirement Income Security Act of 1974 29 U.S.C. Section 1002 (3), (ERISA).

6. The claim asserted by the Plaintiff alleges a denial of benefits by the Trustees of the Pension Fund.

7. Plaintiff's Complaint alleges action by the Trustees of said ERISA Fund concerning the administration of an ERISA Plan for which the Untied States District Courts have original Federal question jurisdiction.

8. Pursuant to 28 U.S.C. Sections 1441-1452 this action is therefore being removed to this Court by the Defendant Pension Fund.

9. This Notice of Removal is filed within 30 days of the date Defendant received a copy of the Complaint notifying it that an action had been filed in the Probate Court.

10. Attached as Exhibit 2 is a true and accurate copy of the Notice To The Probate Court for Worcester County in the Commonwealth of Massachusetts of the filing of the Notice of Removal, the original of which is being filed with the Clerk of the Worcester Probate Court, as required by 28 U.S.C. Section 1446(b).

11. Attached as Exhibit 3 is a true and accurate copy of a Notice to Adversary of Removal of Action, the original of which is being served on Plaintiff's counsel as is required by 28 U.S.C. Section 1446(a).

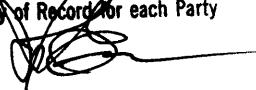
WHEREFORE, the Defendant, Massachusetts State Carpenters Pension Fund Requests that this Court assume full jurisdiction over this cause of action, as provided by law.

MASSACHUSETTS STATE CARPENTERS
PENSION FUND
By Its Attorney,

Dated: February 3, 2004



James F. Grosso - BBO# 213320
O'Reilly, Grosso & Gross, P.C.
1671 Worcester Road
Framingham, MA 01701-5400
Tel: 508/620-0055
Fax: 508/620-7655

CERTIFICATE OF SERVICE
I hereby certify that on this day a true copy of the above document was served upon the Attorney of Record for each Party by mail-hand on. 

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, SS

PROBATE & FAMILY
COURT DEPT.

NO. 03E 0057-GC

BELA F. BALOGH,
Plaintiff

v.

MARIETTE L. POIRIER, F/K/A
MARIETTE L. BALOGH, and
MASSACHUSETTS STATE
CARPENTERS PENSION FUND,
Defendants

SECOND AMENDED COMPLAINT FOR DECLARATORY JUDGMENT

Jurisdiction is conferred upon this court under M.G.L. ch. 215 s.6 and ch. 231A s. 1.

1. On or about February 1, 1992, Plaintiff married Defendant, Mariette L. Poirier, f/k/a Mariette L. Balogh.
2. On or about March 17, 1993 the plaintiff filed a pension application with the Massachusetts State Carpenters Pension Fund (hereinafter "Pension Fund"), a copy of which is annexed and marked Exhibit A.
3. When filling out the pension application, Plaintiff met with a representative of Defendant, Pension Fund.
4. When filling out the pension application, Plaintiff chose to receive his pension benefits in the form of a 75% Participant-Spouse Benefit.
5. At the time the pension application was made, Plaintiff was still married to Defendant, Mariette L. Poirier, f/k/a Mariette L. Balogh.
6. On or about September 22, 2000, Defendant, Mariette L. Poirier, f/k/a Mariette L. Balogh filed a Complaint for Divorce against Plaintiff which is annexed and marked Exhibit B.
7. On or about August 13, 2002, the divorce became final (See Judgment annexed and marked Exhibit C).

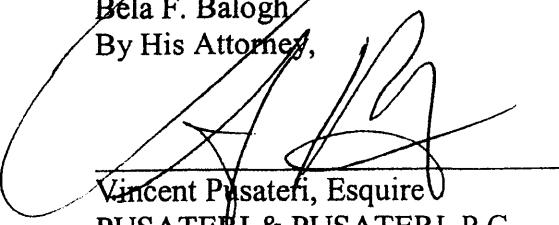
8. After the divorce, Plaintiff attempted to remove Defendant Mariette L. Poirier, f/k/a Mariette L. Balogh from the position of beneficiary of his pension without changing the benefit payments to himself or his beneficiary.
9. Defendant, Pension Fund, refused Plaintiff's request.
10. Plaintiff asserts and claims that his pension is his property right and that Defendant, Pension Fund, has no absolute right to refuse his request to change the beneficiary of his pension plan when said change has no effect on it, and defendant disputes this and claims the right to refuse to change the beneficiary as set forth in a letter, a copy of which is annexed and marked Exhibit D.
11. Unless the rights of the plaintiff and the defendant Pension Fund regarding the right of Plaintiff to change the beneficiary of his pension plan, the plaintiff will continue to suffer irreparable loss and damage by the loss of pension benefits, and plaintiff further desires to avoid litigation and seeks in this action a judicial determination of Plaintiff's and Defendant Pension Fund's rights regarding Plaintiff's right to change the beneficiary of his pension plan so as to guide them as to their future conduct regarding the same.
12. Plaintiff has no adequate remedy at law.

WHEREFORE, plaintiff demands judgment:

- I. That Plaintiff have a declaratory judgment herein, pursuant to M.G.L.A. ch. 231A, determining his right to change the beneficiary of his pension plan and specifying that he is entitled to change the beneficiary of his pension plan;
- II. That the defendant is enjoined from preventing Plaintiff from changing the beneficiary of his pension plan.
- III. For costs.

RESPECTFULLY SUBMITTED

Bela F. Balogh
By His Attorney,


Vincent Pusateri, Esquire
PUSATERI & PUSATERI, P.C.
128 Prichard Street
Fitchburg, MA 01420
Tel. (978) 342-6081
BBO No.: 408120

DATED: December 9, 2003

EXHIBIT A

Massachusetts State Carpenters Pension Fund

350 FORDHAM ROAD • SUITE ONE • WILMINGTON, MASSACHUSETTS 01887
 TELEPHONE: (508) 694-1000

PENSION APPLICATION

Office Use Only (BH) 6768

Application #	6768
Type	Early
Effective Date	4-1-93
Amount \$	1222.58
Option	75.9.95
Lump Sum	3,000.00
Check #	Date

TO THE BOARD OF TRUSTEES:



1. Name Balogh Bela F.
 Last First Middle

2. Address 68 Keyes Rd.
 Number Street

City Gardner State MA Zip 01440 Telephone (508) 632-0966
Area Code

3. Social Security No. 216 38 6829 Date of Birth 3-9-38
 (Attach Proof)

4. Marital Status: Single Married Widowed Divorced Re-Married

NOTE: If your marital status is divorced, you must check the box marked Divorced and forward copies of your Divorce Decree and ALL DOCUMENTS FILED WITH YOUR DECREE.

**COMPLETE THE ENCLOSED FORM IF YOU WISH YOUR MONTHLY
 PAYMENT ELECTRONICALLY DEPOSITED TO YOUR BANK**

Name of Spouse Marielette L. Balogh Social Security No. 015-30-6658

Date of Birth 5-2-38 Date of Marriage 2-1-92

**COMPLETE (i) AND (ii) BELOW, IF YOU ARE NOT MARRIED OR IF YOU DO NOT WISH
TO NAME YOUR SPOUSE AS BENEFICIARY**

(i) Name of Beneficiary Social Security No.

..... Street City State Zip Code

Date of Birth Relationship

(ii) Name of Beneficiary Social Security No.

..... Street City State Zip Code

Date of Birth Relationship

5. Date of Last Initiation into the United Brotherhood 7-16-69

5. a. Present Local Union 1121

6. Were you a member of your present Local Union on June 1, 1962? Yes No

If "No," Please state, (a) Local Union # cleared into (b) Date cleared

(c) Local transferred from State

7. Type of Pension: If eligible, I wish to retire on a (check one)

Regular Pension Early Retirement Pension Disability Pension Vested Pro Rata

Service Pension (No age requirement, 30 or more pension credits worked in Massachusetts)

IF YOU ARE APPLYING FOR A DISABILITY PENSION, COMPLETE THE FOLLOWING

(a) Have you applied for a Social Security Disability Award? Yes No

(b) If "Yes," have you received a decision? Yes No

(c) If "Yes," has it been approved or rejected? Approved Rejected

**IF IT HAS BEEN APPROVED, PLEASE FORWARD A COPY OF THE AWARD CERTIFICATE,
INDICATING YOUR DATE OF ENTITLEMENT FROM SOCIAL SECURITY**

3. Have you ever collected a pension from this office? Yes No

9. Participant-Spouse Benefit -- If you are married, you MUST check either 1, 2 or 3. IF THIS PORTION OF YOUR APPLICATION IS NOT COMPLETED, THE APPLICATION WILL BE RETURNED TO YOU. This could delay the effective date of your pension. Your election may not be changed after the effective date of your pension.

(1) I DO NOT WISH to receive my pension benefits in the form of a 75% Participant-Spouse Benefit.

*(2) I DO WISH to receive my pension benefits in the form of a 75% Participant-Spouse Benefit.

(3) I MAY WISH to receive my pension benefits in the form of a 75% Participant-Spouse Benefit. Please let me know the amount of the pension benefit payable under the 75% Participant-Spouse Benefit.

B. If you have checked 9(1) above, and do not elect 10c below, **100% Participant-Spouse Option**, you and your spouse must complete the enclosed Participant Statement before your pension application can be considered.

✓ Bela T Balogh
Signature of Applicant

✓ 3-17-93
Date

✓ Marcella S Balogh
Signature of Spouse

✓ 3-17-93
Date

10. OPTIONS UNDER THE PLAN:

If you DO NOT elect to receive benefits in the form of a **75% Participant-Spouse**, 9(1) above, you may elect one of the following options:

a. Ten Year Certain Option

b. Joint & Survivor 50% 75% 100%

*c. **100% Participant-Spouse Option**

PLEASE FORWARD A COPY OF YOUR MARRIAGE CERTIFICATE AND SPOUSE'S BIRTH CERTIFICATE, IF YOU CHOOSE A SPOUSE'S BENEFIT

If you DO NOT elect a **75% Participant-Spouse Benefit**, or any of the ABOVE options and die prior to collecting 60 payments, your spouse or beneficiary will receive the remaining payments in the same monthly amount.

*If, before you have collected 24 pension payments, and you have elected the 75% or 100% Participant-Spouse Option, your spouse dies, or you are divorced and are not required to continue pension payments to your spouse under a (QUADRO) Qualified Domestic Relations Order, your benefit will be increased to the amount you would have received had you elected a lifetime pension option. To receive this increase in your pension, you must notify this office by forwarding a copy of the DEATH CERTIFICATE or a copy of the DIVORCE DECREE AND ALL DOCUMENTS FILED WITH THE DECREE.

1. You may also elect to receive a one-time lump sum Readjustment Allowance of 10% but not to exceed \$3,000.00. You **ARE NOT** eligible to elect this payment if you are applying for a **DISABILITY PENSION**.

I DO wish to elect a ONE-TIME READJUSTMENT ALLOWANCE.

I DO NOT WISH to elect a ONE-TIME READJUSTMENT ALLOWANCE.

If you elect the One Time Readjustment Allowance, and do not request a rollover, this office must withhold 20% Federal Tax and 5.95% State tax, from your payment. If your residence is outside Massachusetts, State tax will not be withheld.

Note: The Election/Rejection of Direct Rollover portion of this application, must be completed. Failure to complete this portion will result in a delay of your pension application.

ELECTION OR REJECTION OF DIRECT ROLLOVER TO AN IRA OR RETIREMENT PLAN

If you receive part of your benefit as a **Lump Sum**, you may elect to have part or all of that distribution transferred directly to an Individual Retirement Account (IRA) or to another qualified retirement plan (if it accepts rollovers). If you choose not to have that distribution transferred directly to an IRA or other retirement plan, the Plan is required to withhold 20 percent of the payment for federal income taxes and 5.95 percent for state income taxes. This withholding does not increase your taxes, but will be credited against any income tax you owe.

For further information on direct rollovers and withholding, please read the enclosed Special Tax Notice Regarding Plan Payments. You also may wish to consult your tax advisor before making this decision.

You may choose to have only part of the payment directly rolled over, and to have the rest paid to you. Withholding will be taken out of any part that is not directly rolled over. If you want to have only part of your payment directly rolled over, please tell us the amount (at least \$500) that you would like to roll over.

Check below to indicate whether or not you elect a direct rollover of your lump sum re-adjustment allowance:

I do not want to roll over any of my lump sum payment to an IRA or other qualified retirement plan. Pay me the full amount of my benefits, after withholding 20 percent for federal income tax as required by law and 5.95 percent state income tax.

Bela F Balogh
Name (please print)

216-38-6829
Social Security Number

Bela F Balogh
Signature

3-17-93
Date

I want to roll over my lump sum payment directly to an IRA or other qualified retirement plan that accepts rollovers. The IRA or other retirement plan is named on the reverse side.

I would like to have only **part** of my payment directly rolled over. Please roll over \$ _____ to the IRA or qualified retirement plan named below, and pay the remainder of my benefit to me, after withholding 20 percent for federal income taxes as required by law and 5.95 percent state income tax.

Name (please print)

Social Security Number

Signature

Date

**TO ELECT A DIRECT ROLLOVER
YOU MUST PROVIDE ALL OF THE FOLLOWING INFORMATION**

Please make payment of my benefit on my behalf to:

Name of IRA Trustee or Qualified Retirement Plan

Account Number

Mailing Address

CERTIFICATION

I certify that the recipient of a direct rollover that I have named above is an Individual Retirement Account, an Individual Retirement Annuity, or a qualified retirement plan that accepts rollovers. I understand that payment of my benefits to the trustee of the IRA or qualified retirement plan will release the Trustees of the Massachusetts State Carpenters Pension Plan from any further obligations or responsibilities with respect to the benefits so paid.

Name (please print)

Social Security Number

Signature

Date

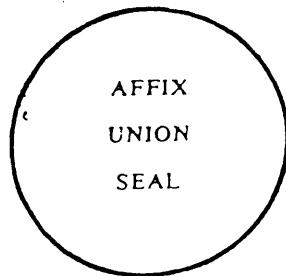
NOTE: If you elected a direct rollover of your Lump Sum readjustment, the completed Authorization / Transfer form must be returned with your application, or, as soon as possible, or payment will be made to you, after deducting the legally required withholding.

12. My last date of employment was or will be	<u>11</u>	Month	<u>Day</u>	<u>92</u>	Year
13. Last Employer	<u>C.R.I.M.</u>				
	<u>3/17/93</u>	Date	<u>Bela & Balogh</u>		
			Signature of Applicant		

TO BE COMPLETED BY YOUR FINANCIAL SECRETARY

I hereby certify that the above employee's last date of initiation into the United Brotherhood was _____
 Month Day Year

I further certify that the above employee was a member of this Local Union on June 1, 1962. If clearance card
 deposited or granted after June 1, 1962, please show date received _____ also Local Union # _____
 from which man transferred to your Local Union.



 Signature of Financial Secretary
 L.U. # _____ Date _____

COM. NWEALTH OF MASSACHUSETTS
 THE TRIAL COURT
 PROBATE AND FAMILY COURT DEPARTMENT

WORCESTER DIVISION

DOCKET #

COMPLAINT FOR DIVORCE

MARIETTE L. BALOGH, PLAINTIFF

v.

BELA F. BALOGH, DEFENDANT

1. Plaintiff, who resides at 10 River Road, 14C, Winchendon, Massachusetts 01475, is lawfully married to Defendant, who now resides at 10 River Road, 14C, Winchendon, Massachusetts 01475.
2. The parties were married at Gardner, Massachusetts, on February 1, 1992, and last lived together at Winchendon, Massachusetts, on May 29, 2000.
3. The minor child of this marriage and date of birth is:

None

4. Plaintiff certifies that no previous action for divorce, annulling or affirming marriage, separate support, desertion, living apart for justifiable cause, or custody of _____ has been brought by either party against the other except: None.
5. On or about May 29, 2000, Defendant was guilty of Cruel and Abusive Treatment toward the Plaintiff as well as on diverse other times and occasions and/or the parties experienced an irretrievable breakdown of the marriage under M.G.L. Ch. 208, Section 1B.

6. Wherefore, Plaintiff requests that the Court:

- grant a divorce for Irretrievable Breakdown and/or Cruel and Abusive Treatment.
- prohibit Defendant from imposing any restraint on Plaintiff's personal liberty.
- order a suitable amount of support of Plaintiff.
- order conveyance of the real estate located at _____, standing in the name(s) of _____, as recorded with _____ Registry of Deeds, Book _____, Page _____.
- allow Plaintiff to resume her former name of _____.
- order an equitable distribution of the marital assets.

Dated:


 Douglas L. Burwick
 Attorney for Plaintiff
 90 Main Street
 Leominster, MA 01453
 BBO #067340

Telephone: (978) 537-3333
 Telefax: ()

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
PROBATE AND FAMILY COURT

WORCESTER, S.S.

DOCKET NO. 00DR2080-DV1

MARIETTE L. BALOGH,
Plaintiff

Vs.

BELA F. BALOGH,
Defendant

JUDGMENT

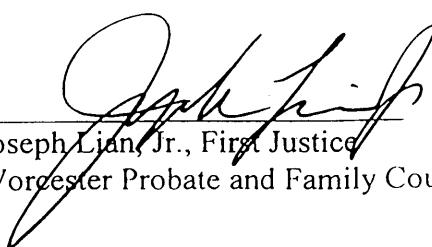
(On Complaint for Divorce filed September 12, 2000)

All persons having been notified in accordance with law and after hearing, it is adjudged nisi that a divorce from the bond of matrimony be granted said Plaintiff for the cause of irretrievable breakdown as provided by G.L. c. 208, § 1B and that upon expiation of three months from the entry of this judgment it shall become absolute unless upon the application of any person within such period, the court shall otherwise order, and it is further ordered that:

1. Each party shall retain all items of personal property, real estate and intangible property including bank accounts standing in their individual name. Husband shall retain all monies in his Fleet Bank Account No. 266-74955, free from any claim of the Wife.
2. Neither party shall pay alimony to the other party.
3. Each party shall be responsible for their own medical and dental expenses.
4. The Wife shall be allowed to resume her former name of Poirier.

5-14-02
Date

ABSOLUTE: August 13, 2002


Joseph Lian, Jr., First Justice
Worcester Probate and Family Court



MASSACHUSETTS STATE CARPENTERS PENSION FUND

350 FORDHAM ROAD • SUITE ONE • WILMINGTON, MASSACHUSETTS 01887-2161

TELEPHONE (978) 694-1900

FAX (978) 657-8618

May 21, 2002

cc:
Vincent Pusateri, Esquire
128 Prichard Street
Fitchburg, MA 01420

Re: Bela Balogh

Dear Attorney Pusateri:

This will acknowledge receipt of your letter dated May 20, 2002 regarding Mr. Bela Balogh's pension.

As stated in your conversation with this office, a Participant Spouse Pension, once payable, may not be revoked unless either the Pensioner or the spouse files for divorce within 24 months after the Participant's Pension Starting date.

Mr. Balogh's pension effective date was April 1, 1993. Accordingly, as neither filed for divorce within the 24 months after April 1, 1993, the Participant Spouse Option cannot be revoked.

Please refer to the enclosed Page 20, Participant Spouse Pension, Section 5.03 (e) and (h) of the Plan Document.

If you have any questions, please contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "HRD".

*Harry R. Dow
Executive Director*

HRD: bac

Enclosures

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, SS

PROBATE & FAMILY
COURT DEPT.

NO. 03E 0057-GC

BELA F. BALOGH,
Plaintiff

v.

MARIETTE L. POIRIER, F/K/A
MARIETTE L. BALOGH, and
MASSACHUSETTS STATE
CARPENTERS PENSION FUND,
Defendants

JUDGMENT

After a hearing, Plaintiff's Motion to Amend the Complaint in Accordance with
Mass.R.Viv.P. 15 is hereby allowed.

1-7-04

Brueckner
Justice of the Probate Court
J

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, SS

PROBATE AND FAMILY COURT
WORCESTER DIVISION
NO. 03E 0057-GC

BELA F. BALOGH)
Plaintiff)
)
V.)
)
MARIETTE L. POIRIER, F/K/A)
MARIETTE L. BALOGH, and)
MASSACHUSETTS STATE)
CARPENTERS PENSION FUND)

NOTICE OF FILING OF REMOVAL OF DEFENDANT
MASSACHUSETTS STATE CARPENTERS PENSION FUND

To The Clerk of Courts:

Please take notice that on February 3, 2004 Defendant, Massachusetts State Carpenters Pension Fund filed a Notice of Removal, a copy of which is attached hereto in the United States District Court for the District of Massachusetts. This Court shall therefore proceed no further unless and until this case is remanded. 28 U.S.C. Section 1446(d).

MASSACHUSETTS STATE CARPENTERS
PENSION FUND
By Its Attorney,

James F. Grosso - BBO 213320
O'Reilly, Grosso & Gross, P.C.
1671 Worcester Road, Suite 205
Framingham, MA 01701-5400
Tel: 508/620-0055
Fax: 508/620-7655

DATED: February 3, 2004

CERTIFICATE OF SERVICE

I hereby certify that on this day a true copy of the above document was served upon the Attorney of Record for each Party by mail-hand on

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, SS

PROBATE AND FAMILY COURT
WORCESTER DIVISION
NO. 03E 0057-GC

BELA F. BALOGH)
Plaintiff)
)
V.)
)
MARIETTE L. POIRIER, F/K/A)
MARIETTE L. BALOGH, and)
MASSACHUSETTS STATE)
CARPENTERS PENSION FUND)

NOTICE TO ADVERSE PARTY OF FILING OF NOTICE OF REMOVAL

TO: Vincent Pusateri, Esquire
Pusateri & Pusateri, P.C.
128 Prichard Street
Fitchburg, MA 10420

Please be advised that a Notice of Removal of the above-captioned matter from the Worcester Probate and Family Court to the United States District Court for the District of Massachusetts was filed this 3rd day of February, 2004 in the United States District Court for the District of Massachusetts. A copy of the Notice is attached.

MASSACHUSETTS STATE CARPENTERS
PENSION FUND
By Its Attorney,

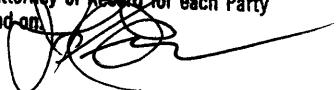


James F. Grosso – BBO 213320
O'Reilly, Grosso & Gross P.C.
1671 Worcester Road, Suite 205
Framingham, MA 01701-5400
Tel: 508/620-0055
Fax: 508/620-7655

DATED: February 3, 2004

CERTIFICATE OF SERVICE

I hereby certify that on this day a true copy of the above document was served upon the Attorney of Record for each Party by mail-hand-on.



CIVIL COVER SHEET 40016

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

BELA F. BALOGH

**(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Worcester
(EXCEPT IN U.S. PLAINTIFF CASES)**

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Vincent Pusateri
Pusateri & Pusateri, P.C.
128 Prichard Street
Fitchburg, MA 01420

978/342-6081

DEFENDANTS

MARIETTE L. POIRIER, f/k/a MARIETTE L. BALOGH
MASSACHUSETTS STATE CARPENTERS PENSION FUND

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Worcester

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
TRACT OF LAND INVOLVED.**II. BASIS OF JURISDICTION** (PLACE AN "X" IN ONE BOX ONLY)

1 U.S. Government Plaintiff
 2 U.S. Government Defendant
 3 Federal Question (U.S. Government Not a Party)
 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PTF	DEF	PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

IV. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Manne Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury — Med. Malpractice <input type="checkbox"/> 365 Personal Injury — Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input checked="" type="checkbox"/> 791 Emp. Ret. Inc. Security Act	PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWV (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input checked="" type="checkbox"/> 791 Emp. Ret. Inc. Security Act	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS — Third Party 26 USC 7609
<input type="checkbox"/> 1 Original Proceeding <input checked="" type="checkbox"/> 2 Removed from State Court <input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	Transferred from <input type="checkbox"/> 5 another district (specify)	<input type="checkbox"/> 6 Multidistrict Litigation	Appeal to District Judge from <input type="checkbox"/> 7 Magistrate Judgment

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 another district
(specify)
 6 Multidistrict Litigation
 7 Magistrate Judgment

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE.
DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

This action is being removed from State Court because the issue includes Federal Law 29 USC §1001 et seq and the District Court has original jurisdiction pursuant to 28 USC §1331.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
 UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: YES NO**VIII. RELATED CASE(S)** (See instructions:
IF ANY)JUDGE N/A

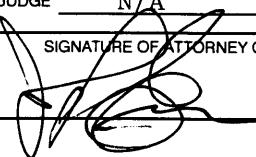
DOCKET NUMBER _____

SIGNATURE OF ATTORNEY OF RECORD

DATE

2/3/04

FOR OFFICE USE ONLY



RECEIPT # _____ AMOUNT _____ APPLYING IFF _____ JUDGE _____ MAG. JUDGE _____

04-40016

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) Bela F. Balogh v. Mariette L. Poirier, f/k/a Mariette L. Balogh

2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).

- I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950.
- III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- V. 150, 152, 153.

*Also complete AO 120 or AO 121
for patent, trademark or copyright cases

3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(G)). IF MORE THAN ONE PRIOR RELATED CASE HAS BEEN FILED IN THIS DISTRICT PLEASE INDICATE THE TITLE AND NUMBER OF THE FIRST FILED CASE IN THIS COURT.

No Related Cases

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?

YES NO

5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC §2403)

YES NO

IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY?

YES NO

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC §2284?

YES NO

7. DO ALL OF THE PARTIES IN THIS ACTION, EXCLUDING GOVERNMENTAL AGENCIES OF THE UNITED STATES AND THE COMMONWEALTH OF MASSACHUSETTS ("GOVERNMENTAL AGENCIES"), RESIDING IN MASSACHUSETTS RESIDE IN THE SAME DIVISION? - (SEE LOCAL RULE 40.1(D)).

YES NO

A. IF YES, IN WHICH DIVISION DO ALL OF THE NON-GOVERNMENTAL PARTIES RESIDE?

EASTERN DIVISION CENTRAL DIVISION WESTERN DIVISION

B. IF NO, IN WHICH DIVISION DO THE MAJORITY OF THE PLAINTIFFS OR THE ONLY PARTIES, EXCLUDING GOVERNMENTAL AGENCIES, RESIDING IN MASSACHUSETTS RESIDE?

EASTERN DIVISION CENTRAL DIVISION WESTERN DIVISION

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME James F. Grosso

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1671 Worcester Road, Suite 205, Framingham, MA 01701-5400

TELEPHONE NO. 508/620-0055